

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA, :
:

Plaintiff/Respondent, : Case Nos. 3:10-cr-13, 3:13-cr-179,
v. : 3:15-cv-356
MARK RUTLEDGE, : JUDGE WALTER H. RICE
:

Defendant/Petitioner.

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #98 IN CASE
NO. 3:10-cr-13, DOC. #42 IN CASE NO. 3:13-cr-179); DISMISSING
WITH PREJUDICE MOTION TO CORRECT ILLEGAL SENTENCE
PURSUANT TO TITLE 28 U.S.C. § 2255(f)(4) (DOC. #97 IN CASE
NO. 3:10-cr-13, DOC. #41 IN CASE NO. 3:13-cr-179); DENYING
CERTIFICATE OF APPEALABILITY AND LEAVE TO APPEAL *IN FORMA
PAUPERIS*; JUDGMENT TO ENTER IN FAVOR OF RESPONDENT AND
AGAINST PETITIONER; TERMINATION ENTRY

Based on the reasoning and citations of authority set forth by United States
Magistrate Judge Michael R. Merz, in his October 7, 2015, Report and
Recommendations (Doc. #98 in Case No. 3:10-cr-13 and Doc. #42 in Case No.
3:13-cr-179), as well as on a thorough *de novo* review of this Court's file and the
applicable law, the Court ADOPTS said judicial filing in its entirety. Although the
parties were notified of their right to file Objections to the Report and
Recommendations, and of the consequences of failing to do so, no Objections have
been filed within the time allotted.

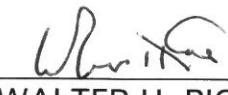
Petitioner's Motion to Correct Illegal Sentence Pursuant to Title 28 U.S.C. § 2255(f)(4) (Doc. #97 in Case No. 3:10-cr-13 and Doc. #42 in Case No. 3:13-cr-179) is DISMISSED WITH PREJUDICE.

Given that Petitioner has not made a substantial showing of the denial of a constitutional right and, further, that the Court's decision herein would not be debatable among reasonable jurists, Petitioner is denied a certificate of appealability. Given that any appeal from this Court's decision would be objectively frivolous, Petitioner is denied leave to appeal *in forma pauperis*.

Judgment will be entered in favor of Respondent and against Petitioner.

The captioned cases are hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

Date: November 3, 2015



WALTER H. RICE
UNITED STATES DISTRICT JUDGE